

Friday, May 1, 2009

Division One

**A120991 – Hettie LaVerne Hawkins, v. Janet Tapia.**

Accordingly, the judgment is affirmed. Graham, J.<sup>1</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A120175 – The People, v. Mario Aaron Martinez – Delgado.**

The judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A118977 – The People, v. Loren Mark McKinnon, Jr.**

The judgment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Monday, May 4, 2009

Division Four

**A122615 – The People, v. Leslie Howard Swift.**

We affirm. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A124209 – Kim W., v. The Superior Court of Contra Costa County, Contra Costa County Children & Family Services Bureau et al., R.P.I.**

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<sup>1</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

The petition is denied on its merits. The order to show cause, having served its purpose, is discharged. This decision shall be final as to this court on the seventh calendar day after the filing of this opinion. (Cal. Rules of Ct., rule 8.490(b)(3).) The previously issued stay on the hearing under section 366.26 shall be immediately dissolved upon the finality of the case in this court. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J.<sup>2</sup> (Not for Publication.)

Tuesday, May 5, 2009

Division One

**A121236 – The People, v. Ernesto Flores.**

The judgment of conviction and the sentence are affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>3</sup> (Not for Publication.)

Division Two

**A121002 – Audrey Manuel et al., v. Pacific Gas & Electric.**

By The Court: The opinion in the above-entitled matter filed on April 20, 2009, was not certified for publication in the Official Reports. For good cause, the request for publication by Pacific Gas and Electric Company is granted. Pursuant to California Rules of Court, rule 8.1105 and 8.1110, the opinion in the above-entitled matter is ordered certified for publication in the Official Reports. Kline, P.J. (Not for Publication.)

Division Three

**A122333 – John Nutt, v. U.S. Food Service, Inc.**

The order denying plaintiff's motion for relief under section 473, subdivision (b) is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

**A123421 – The People, v. William Gail Potter.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Bruiniers, J.<sup>4</sup> (Not for Publication.)

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<sup>2</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>3</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, May 6, 2009

Division Two

Wednesday, May 6, 2009(Continued)

**A120328 – The People, v. Tyrone Cooper.**

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A119698 – The People, v. Willie Lee Hardin.**

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Five

**A123093 – The People, v. Darren Todd Phillips.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, P.J. (Not for Publication.)

**A121699 – The People, v. Belle Peterson.**

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J.<sup>5</sup> (Not for Publication.)

Thursday, May 07, 2009

Division One

**A121535 – The People, v. E.G.**

By The Court: The petition for rehearing is denied. Margulies, J. Acting P.J.

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<sup>4</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>5</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

**A118442 – State Route 4 ByPass Authority, v. Irwin Brent Pomeroy, et al.**

The order appealed from is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A123516 – James F. Robinson, v. County of Solano et al.**

Thursday, May 07, 2009(Continued)

The appeal is dismissed. Each party shall bear its own costs on appeal. Siggins, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

**A120563 – In re A.J., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. K.V. et al.**

The appeal is dismissed as moot. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A121256 – Deanna Short et al., v. Sequoia Ventures, Inc.**

By The Court: it is ordered that the opinion filed herein on April 30, 2009, be modified as follows: (See Order). There is no change in the judgment. McGuinness, P.J. (Not for Publication.)

Division Four

**A117955 – The People, v. David Lawrence Dyke.**

By The Court: The petition for rehearing filed by respondent on April 16, 2009, is denied. The motion for judicial notice filed by respondent on April 16, 2009 is also denied. The opinion filed herein on April 9, 2009 is ordered modified as follows: (See Order). There is no change in the judgment. Ruvolo, P.J (Certified for Publication.)

**A120992 – The People, v. Adam D. Mrozek.**

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Thursday, May 7, 2009

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer James Militar, Bailiff.

A122000      In re D. B., a minor.  
People  
v.  
D. B.  
Cause called. Eileen Manning-Villar argued for appellant D. B. Ronald Niver argued for respondent. Cause submitted.

A123065      In re B. O., a minor.  
People  
v.  
B. O.  
Cause called. Christopher Love argued for appellant B. O. Ronald Niver argued for respondent. Cause submitted.

A121539      Anthony Beninanti  
v.  
Black Rock City  
Cause called. Evan D. Marshall argued for appellant Beninanti. Steven Kronenberg argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, and Rivera, J.

A121982      Center for Self-Improvement and Community Development  
v.  
Lennar Corporation et al.  
Cause called. Michael R. Lozeau argued for appellant Center. Peter Obstler argued for respondents. Cause submitted.

A121642 Joe D. Turner  
v.  
Gregory E. Schultz et al.

A121707 Joe D. Turner  
v.  
American Arbitration Association et al.  
Causes called. Adam Gruen argued for appellant Turner. David Trotter argued for respondents. Causes submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A120752 Airport Commuter  
v.  
Yasser F. Albazian et al.  
Cause called. Evan D. Marshall argued for appellant Beninanti. Steven Kronenberg argued for respondent. Cause submitted.

Court adjourned at 11:02 a.m.

Thursday, May 07, 2009(Continued)

Division Five

**A120540 – The People, v. Derrick Austin Lester Hill.**

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment showing that appellant's convictions on count 5 for kidnapping, and count 7 for carjacking are dismissed. In all other respects, the judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J.<sup>6</sup> (Not for Publication.)

Friday, May 8, 2009

Division Four

**A119074 – The People, v. Kenneth Perry.**

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A121331 – Barbara S. Chapman, v. The Board of Trustees of The California State University.**

The trial court's orders are affirmed. Costs are awarded to respondent. Simons, J., We Concur: Jones, P.J., Bruiniers, J.<sup>7</sup> (Not for Publication.)

Monday, May 11, 2009

Division One

**A121254 – Adeeba Mary Sabr, v. Heinz Voss.**

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<sup>6</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>7</sup> Judge of the Contra Costa Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Accordingly, the judgment is affirmed. Costs on appeal are awarded to plaintiff. Graham, J.<sup>8</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Monday, May 11, 2009(Continued)

**A118935 – The People, v. John Andrew Mlodzianowski.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Reardon, J.<sup>9</sup> (Not for Publication.)

Division Three

**A122521 – The People, v. Curtis Anthony Goodwin, Jr.**

By The Court: The application for relief from default and for leave to file a late petition for rehearing is granted. The petition for rehearing received on May 5, 2009 is ordered filed. The petition for rehearing is denied. McGuiness, P.J.

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<sup>8</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>9</sup> Associate Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Monday, May 11, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

A122578 Calif-Nevada Annual Conf. of the United Methodist Church, et al.,  
v.  
City and County of San Francisco, et al.  
Cause called and argued by Thomas S. Lakritz, counsel for appellant; Douglas Robbins, counsel for respondent Pacific Polk Properties; and Gordon Egan, counsel for respondent Calif-Nevada Annual Conference of the United Methodist Church. Cause ordered submitted.

At this point in the proceedings, Pollak, J. left the bench and Jenkins, J. joined the bench.

A121756 City of Richmond,  
v.  
Richmond Police Officers Association.  
Cause called and argued by Harry S. Stern, counsel for appellant, and Nikki Hall, counsel for respondent. Cause ordered submitted.

A122672 Matthew J. Washington,  
v.  
David P. Pygeorge, et al.  
Cause called and argued by appellant in pro per, via teleconference; Jason J. Sommer, counsel for respondent Bender, via teleconference; and Leslie A. Baxter, counsel for respondent Pygeorge. Cause ordered submitted.

Court adjourned.

Tuesday, May 12, 2009

Division One

**A120569 – Wajih Ajib, v. City of San Rafael et al.**

The judgment is affirmed. Graham, J.,<sup>10</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A121717 – The People, v. Eddie Loren Butler.**

Accordingly, the appeal is dismissed. Graham, J.,<sup>11</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A122747 – In re H.D., a Person Coming Under the Juvenile Court Law.  
Sonoma County Human Services Department, v. V.D.**

Since the appeal is now moot, we hereby dismiss the appeal. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

**A119286 – The People, v. John Sundquist.**

The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

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<sup>10</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>11</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, May 12, 2009

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Militar and S. Wheeler, Deputy Clerk.

At the beginning of the proceedings, Presiding Justice Kline announced that he was not on the panel for the first case and that Justice Haerle would be presiding over that case. The remainder of the cases would consist of Presiding Justice Kline, Justice Haerle and Justice Lambden.

A118134      A.N.S.W.E.R.,  
v.  
City and County of San Francisco.  
Cause called and argued by Carol Anne Sobel, counsel for appellant, and Deputy City Attorney, Wayne K. Snodgrass, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Richman left the bench and Presiding Justice Kline joined the bench for the remainder of the calendar.

A119543      Forestville Citizens For Sensible Growth,  
v.  
County of Sonoma et al.;  
Canyon Rock Company Inc.et al., Real Parties in Interest.  
Cause called and argued by Ellison Folk and Kevin Patrick Bundy, counsel for appellant, Jeffrey Michael Brax, counsel for respondents County of Sonoma et al., and Andrea Alessandra Matarazzo, counsel for Real Parties in Interest. Cause ordered submitted.

**Court recessed until 1:30 p.m.**

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, May 12, 2009

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Borgen, Officer Singh and S. Wheeler, Deputy Clerk.

A117180      Rose Jones,  
                 v.  
                 Regents of the University of California.  
Cause called and argued by David C. Anton, counsel for appellant, and Jeffrey Albin Miller, counsel for respondent. Cause ordered submitted.

A121112;      John Doe,  
A122453      v.  
                 Sequoia Equities et al.;  
                 John Doe,  
                 v.  
                 WCPI, LLC, et al.  
Cause called and argued by appellant John Doe, appearing in propria persona, and Richard L. Beckman, counsel for respondents. Cause ordered submitted.

At this point of the proceedings, Justice Haerle left the bench and Justice Lambden joined the bench for the remainder of the calendar.

A118254;      Lisa Hernandez et al.,  
A120640      v.  
                 Vitamin Shoppe Industries;  
                 Andrew Shatz et al.  
                 v.  
                 Vitamin Shoppe.  
Cause called and argued by Jeffrey Neil Wilens, counsel for appellant, John Eastman Pickett, counsel for respondents Lisa Hernandez et al., and Margaret Anne Grignon, counsel for respondents Andrew Shatz et al. Cause ordered submitted.

A121719      In re the Marriage of Ghulam Nurie and Fizza Rizvi.  
                 Ghulam Nurie,  
                 v.  
                 Fizza Rizvi.  
Cause called and argued by Ann Frances Van De Pol, counsel for appellant, and

Theodore Maurice Amado, counsel for respondent. Cause ordered submitted.

A121800 In re Kuldip S. Kler on Habeas Corpus.  
Cause called and argued by Chris Richard Redburn, counsel for petitioner, and  
Deputy Attorney General, Denise Yates, counsel for respondent. Cause ordered  
submitted.

**Court Adjourned.**

Tuesday, May 12, 2009(Continued)

Division Three

**A123351 – In re D.H., a Person Coming Under the Juvenile Court Law. Lake County Department of Social Services, v. Clorinda R.**

The order of the juvenile court terminating appellant's parental rights is conditionally reversed and the matter is remanded to the juvenile court with directions to order the Department to provide proper notice of the proceedings under the ICWA. If, after receiving sufficient notice, no tribe indicates that the child falls within the meaning of ICWA, then the juvenile court shall reinstate the order terminating parental rights. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

**A122778 – In re M.C., a Person Coming Under the Juvenile Court Law. The People, v. M.C.**

The matter is remanded to the juvenile court to allow the court to exercise its discretion to determine whether appellant's section 245 offense was a misdemeanor or felony. The wardship order is affirmed in all other respects. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A122834, A122981 – In re D.N.K., a Person Coming Under the Juvenile Court Law. N.K., v. Del Norte County Department of Health and Human Services.**

The orders denying appellant's section 388 petition and terminating her parental rights are affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A121073 – Linda Aurichio et al., v. Howard D. Menashe.**

Judgment affirmed. The Aurichios are awarded their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A123217 – The People, v. Collie George Downer.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A113056 – The People, v. Jose Antonio Merel and Michael William MaGidson.**

The judgments are affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J.  
(Not for Publication.)

Division Five  
Tuesday, May 12, 2009(Continued)

**A121364 – The People, v. Lynn Gary Newton.**

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J.,  
Bruiniers, J.<sup>12</sup> (Not for Publication.)

Wednesday, May 13, 2009

Division Three

**A121770 – The People, v. Kevin Tyrone Buford.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

**A119516 – The People, v. Dennis Duree.**

The order granting a new trial is reversed, and the matter is remanded to the trial court for sentencing. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

**A122553 – The People, v. Vincent Rosenbalm.**

The July 31, 2008, orders denying Rosenbalm's *Marsden* motion and reinstating his commitment are vacated. On remand, the matter shall be assigned to a different judge. The court shall then hold a hearing on Rosenbalm's *Marsden* motion concerning Thompson. If Rosenbalm prevails on his *Marsden* motion, the court shall appoint new counsel to assist him and shall entertain such applications as newly appointed counsel may make. If newly appointed counsel does not make any motions, any motions made

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<sup>12</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

are denied, or the *Marsden* motion is denied, the court shall reinstate the commitment order. Bruiniers, J.,<sup>13</sup> We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A120189 – The People, v. Raymond Edward Jungwirth.**

The judgment is affirmed. Bruiniers, J.<sup>14</sup> We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Thursday, May 14, 2009

Division Two

**A118552 – The People, v. Jaime Roberto Sanchez.**

The restitution order is reversed and the matter is remanded to the trial court with directions to determine appellant's restitution obligation consistent with the principles set forth in this opinion. In all other respects, the judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A123284 – The People, v. Kiet M. Ly.**

The final judgment of conviction and sentencing order are affirmed. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A121300 – The People, v. Pedro Garnica.**

In all other respects the judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A123461 – In re J.L., a Person Coming Under the Juvenile Court Law. The People, v. J.L.**

The order of the juvenile court is affirmed. Pollak, J., We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

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<sup>13</sup> Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>14</sup> Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

**A115775 – The People, v. Demarcus Ralls.**

The sentences on counts 5, 6 and 7 are reversed and modified in accordance with this opinion. The matter is remanded to the trial court for correction of the abstract of judgment on these counts. In all other respects, the judgment is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A122000 – In re D.B., a Person Coming Under the Juvenile Court Law. The People, v. D.B.**

In all other respects, the juvenile court order is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A124411 – Adriana B., v. The Superior Court of Contra Costa County. Contra Costa County Children and Family Services Bureau, R.P.I.**

Thursday, May 14, 2009(Continued)

The petition for an extraordinary writ is denied on the merits. (§ 366.26, subd. (I).) Our decision is final in this court immediately. (Cal. Rules of Court, rule 8.490(b)(3).) Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A121043 – Candace De Los Santos et al., v. Komar, LLC.**

The judgment is affirmed. Plaintiffs are entitled to their costs on appeal. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE  
Friday, May 15, 2009

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Graham, Judge of the Marin County Superior Court [Ret.], assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution., Raquel Arellano, Deputy Clerk, and CHP Officer Harjit Singh, Bailiff.

- A117853    People,  
              v.  
              Tomelia Dillon.  
Cause called and argued via teleconference by Barbara Zuras, counsel for appellant, and Mark Howell, counsel for respondent. Cause ordered submitted.
- A119292    People,  
              v.  
              Damien Danari Hall  
Cause called and argued by Dennis Riordian, counsel for appellant, and Mark Howell, counsel for respondent. Cause ordered submitted.
- A121516    People,  
              v.  
              Scott L. Depree.  
Cause called and argued by Jonathan Soglin, counsel for appellant, and Ronald Niver, counsel for respondent. Cause ordered submitted.
- A121308    Joshua Sakov,  
              v.  
              Ester Adut.  
Cause called and argued by Ester Adut, appellant in propria persona. Joshua Sakov, respondent in propria persona failed to appear. Cause ordered submitted.

Continued

- A121783 Joshua Sakov,  
v.  
Ester Adut.  
Cause called and argued by Ester Adut, appellant in propia persona. Joshua Sakov, respondent in propia persona failed to appear. Cause ordered submitted.
- A121838 Emily Jones Larsen et al.,  
v.  
Nissan North America.  
Cause called and argued by Sean Absher, counsel for appellant, and Sheila Kelley, counsel for respondent. Cause ordered submitted.
- A121316 Anastasiya Komarova,  
A122041 v.  
National Credit Acceptance.  
Cause called and argued by Mark Ellis, counsel for appellant, and Anne Murphy, counsel for respondent. Cause ordered submitted.
- A123788 Sandra Caron European Spa, Inc.,  
v.  
The Superior Court of San Mateo County;  
Jane Doe.  
Cause called and argued by Judith Tishkoff, counsel for petitioner, and John Halley, counsel for real party in interest. Cause ordered submitted.

Court adjourned.

Friday, May 15, 2009(Continued)

Division Two

**A122154 – Tommy Larry Ritchey et al., v. Michelle Galindo et al.**

The judgment is affirmed. The Ritcheys are to pay the costs of appeal. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A121754 – David Gutierrez, v. Nor-Cal Ready Mix, Inc.**

The summary judgment in favor of Nor-Cal is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Monday, May 18, 2009

Division One

**A122729 – Ryan Rivera, v. Ruth Wilson et al.**

The judgment of dismissal is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>15</sup> (Not for Publication.)

Division Two

**A114961, A116750, A117270 – In re the Marriage of Gilbert II and Amy Lynn Papazian. Gilbert Papazian II, v. Amy Lynn Papazian.**

By The Court: It is ordered that the opinion filed herein on April 22, 2009, be modified as follows: (See Order). The petition for rehearing is denied. Haerle, Acting P.J. (Not for Publication.)

**A122993 – Henry Stevens, v. Yolanda Paul.**

The order awarding Paul her attorney fees on the prior appeal of the grant of the anti-SLAPP motion is affirmed. Paul is awarded her costs and attorney fees in connection with this appeal as well. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

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<sup>15</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A120799 – In re Edward M., a Person Coming Under the Juvenile Court Law. The People, v. Edward M.**

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J.  
(Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Monday, May 18, 2009

The Court convened at 1:45 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officers Bobby Franklin and James Militar, Bailiffs.

- A120964 Michael Menaster  
v.  
California Department of Social Services  
Cause called. John McGlothlin argued for appellant State of California. Jordan Yudien argued for respondent Menaster. Cause submitted.
- A120667 Coachella Valley Unified School District, et al,  
v.  
State of California, et al  
Cause called. Marc Coleman argued for appellant Coachella Valley USD. Jennifer Bunshoft argued for respondent State of California. Cause submitted.

Court was adjourned at 2:45 p.m.

Monday, May 18, 2009(Continued)

Division Five

**A120998 – The People, v. Manuel Villalobos.**

The judgment is affirmed. Bruiniers, J.<sup>16</sup> We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Tuesday, May 19, 2009

Division Two

**A118134 – Act Now To Stop War and End Racism Coalition – San Francisco, v. City and County of San Francisco.**

We reverse the trial court's judgment, based solely on our determination that DPW issued the citations at issue to appellant based upon section 184.65, which does not provide the DPW with authority to issue administrative citations, or for application of the "rebuttable presumption" stated in section 184.65 in the course of the administrative review of those citations. Respondent's authority regarding administrative citations is found in Public Works Code section 184.63, subdivision (a), and Police Code section 39-1. Specifically, Public Works Code section 184.63, subdivision (a), states in relevant part that such citations are to be "issued by [DPW] officials designed in Section 38 of the Police Code. *Such administrative penalties shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code*, and shall include the costs to the City incurred in obtaining the imposition of the penalty, including the cost of paying City employees to engage in the administrative process." (S.F. Pub. Works Code, § 184.63, subd. (a), italics added.) We deny appellant's appeal regarding the constitutionality of section 184.65 because it in effect asks for an advisory opinion, and is neither within our or the superior court's jurisdiction to consider. To the extent portions of the superior court's judgment and statement of decision are inconsistent with our

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<sup>16</sup> Judge of the Contra Costa Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

opinion, those portions are hereby disapproved, including the entirety of the lower court's discussion and rulings regarding the constitutionality of section 184.65. We remand this matter to the superior court with instructions to determine relief that is consistent with this opinion. Appellant is awarded its costs of appeal. Lambden, J., We Concur: Haerle, acting P.J., Richman, J. (Not for Publication.)

**A121800 – In re Kludip S. Kler, on Habeas Corpus.**

The petition for writ of habeas corpus is granted. Given that there is no evidence in the record that petitioner currently presents an unreasonable risk to public safety, the Board is directed to find petitioner suitable for parole unless, within 30 days of the finality of this decision, the Board holds a hearing and  
Tuesday, May 19, 2009(Continued)

determines that *new evidence* of petitioner's conduct in prison subsequent to his 2007 parole hearing supports a determination that he currently poses an unreasonable risk of a danger to society if released on parole. (*in re Gaul* (2009) 170 Cal.App.4th 20, 39-41.) In the interests of justice and to prevent frustration of the relief granted, this decision shall be final as to this court five days after it is filed. (Cal. Rules of Court, rule 8.490(b)(3); *In re Aguilar* (2008) 168 Cal.App.4th 1479, 1492.) Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A122672 – Matthew J. Washington, v. David P. PyGeorge et al.**

The judgment and orders of the superior court are affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

**A122094 – In re S.P., a Person Coming Under the Juvenile Court Law. The People, v. S.P.**

The orders of the juvenile court are affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Tuesday, May 19, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Simons, Acting P.J., Needham, Jr., J., Bruiniers, J.,\* and Joshua Chow, Deputy Clerk.

A122264 C.R.,  
v.  
K. S.,  
Cause called and argued by Mary Elizabeth McAlister, counsel for appellant and cross-respondent, and by Amy Elizabeth Rose, counsel for respondent and cross-appellant. Cause ordered submitted.

A118798 The People,  
v.  
Kimiko Kimio Wilson,  
Cause called and argued by John Ward, counsel for appellant, and by Gregg E. Zywicke, counsel for respondent. Cause ordered submitted.

A121091 The People,  
v.  
Caleb James Flitcroft,  
Cause called and argued by William Lathan Osterhoudt, counsel for appellant, and by David Baskin, counsel for respondent. Cause ordered submitted.

A121239 The People,  
v.  
Dante Deshan Primus,  
Cause called and argued by Matthew Alexander Siroka, counsel for appellant, and by Michael Banister, counsel for respondent. Cause ordered submitted.

Court adjourned at 10:37 a.m.

\*Judge from Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, May 20, 2009

Division One

**A119190 – The People, v. Jess Robert Whitehead.**

The portion of the trial court's judgment staying the prior serious felony enhancement and the prior prison term enhancement is vacated. The matter is remanded to the trial court with directions to impose the five-year prior serious felony enhancement and to determine, in the proper exercise of its discretion, whether to strike or impose the prior prison term enhancement. The judgment of the trial court is otherwise affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>17</sup> (Not for Publication.)

**A122918 – In re T.H., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau, v. D.H., et al.**

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>18</sup> (Not for Publication.)

Division Two

**A117321, A118257, A120840 – Ronald Hogan, et al., v. Deangelis Constructions, Inc., et al.**

The post-judgment order appealed by the Developers and the post-judgment order appealed by the Hogans are both affirmed. This case is remanded to the trial court with instructions to modify the amended judgment to (1) strike the award of damages against the Developers for intentional concealment; (2) provide that the Engstroms are jointly and severally liable for a portion of the Hogans' consequential damages awarded against the Developers, and that the Engstroms' share of that joint and several liability is equivalent to the damages awarded against them for intentional concealment and breach of contract. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

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<sup>17</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>18</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A122578 – The California-Nevada Annual Conference of the United Methodist Church et al., v. City and County of San Francisco et al.**

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J.  
(Certified for Publication.)

Thursday, May 20, 2009(Continued)

Division Four

**A121982 – Center for Self-Improvement and Community Development, v. Lennar Corporation et al.**

The judgment is reversed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J.  
(Certified for Publication.)

**A120971 – Air China Limited, v. San Mateo County.**

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J.  
(Certified for Publication.)

Division Five

**A123540 – In re A.R-S., a Person Coming Under the Juvenile Court Law. The People, v. A.R-S.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J.<sup>19</sup>  
(Not for Publication.)

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<sup>19</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Wednesday, May 20, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J.,\* and Eric F. Cyman, Deputy Clerk.

A120481 Patricia Dobashi,  
v.  
Stephen Goldstein et al.,  
Cause called and argued by Charles Bourdon, counsel for appellant and cross-respondent, and by Christopher James Hayes, counsel for respondent and cross-appellant. Cause ordered submitted.

A121715 The People,  
v.  
James Doyle Henson,  
Cause called and argued by Gene D. Vorobyov, counsel for appellant, and by Allan Yannow, counsel for respondent. Cause ordered submitted.

A122045 The People,  
v.  
Shane Christopher Edwards,  
Cause called and argued by David D. Martin, counsel for appellant, and by Christopher Grove, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Bruiniers left the bench and Justice Needham entered.

A123748 Samantha Seinfeld,  
v.  
GL Premier Properties, LLC et al.,  
Cause called and argued by L. Jay Pedersen, counsel for appellant, and by Joel K. Liberson, counsel for respondent. Cause ordered submitted.

A118592 Sheryl Fernandez,  
v.  
Bill Beaton,  
Cause called and argued by Robert E. Barnett, counsel for appellant, and by Gary Watt, counsel for respondent. Cause ordered submitted.

A121310 Kathleen Keating Verniest,  
v.  
Betty Ledonne,  
Cause called and argued by James Thompson, counsel for appellant, and by Richard M. Grant, counsel for respondent. Cause ordered submitted.

A122179 Margaret Seltzer,  
v.  
The Headlands Homeowners Association et al.,  
Cause called and argued by James Stewart Williams, counsel for appellants, and by Margaret A. Seltzer, respondent. Cause ordered submitted.

A121827 Valentine Wealth Management et al.,  
v.  
Sean Agahi et al.,  
Cause called and argued by Christopher Cooke, counsel for appellants, and by James A. Hughes, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

A118739 The People,  
v.  
Edmundo Adaylton Martell,  
Cause called and argued by John Wilder Lee, counsel for appellant, and by Donna Provenzano, counsel for respondent. Cause ordered submitted.

A122009 Edward J. Mooradian,  
v.  
Convalescent Center mission Street,  
Cause called and argued by William Edward Weiss, counsel for appellant, and by Michael Alan Dubin, counsel for respondent. Cause ordered submitted.

A121230 Conservatorship of the Person and Estate of Ruth A. Copley.  
Marin County Public Guardian,  
v.  
Alicia Antone,  
San Francisco Ballet Endowment Foundation et al.,  
Cause called and argued by James Hastings, counsel for appellant, and by Lindsay Lutz, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:54 p.m.

\*Judge from Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, May 21, 2009

Division One

**A120895 – The People, v. Christopher John Cunningham.**

The judgment is affirmed. Graham, J.<sup>20</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Friday, May 22, 2009

Division One

**A121390, A122619 – Americans for Safe Access et al., v. County of Alameda et al.**

The judgment is affirmed with regard to the first, second, and third causes of action, and reversed as to the forth, fifth, and sixth causes of action. The permanent injunction is affirmed, subject to the proviso that the permanent injunction only applies when County employs DRE machines to record votes. With regard to the multiplier, the fee award is reversed and the cause is remanded for further proceedings on reconsideration of the multiplier. Those proceedings should culminate in an explanation of the trial court's ruling. Each side shall bear its own costs on appeal. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>21</sup> (Not for Publication.)

Division Two

**A122595 – Rhonda Colvin et al., Tina Webster et al.**

The orders are affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A122418 – In re J.W., a Person Coming Under the Juvenile Court Law. The People, v. J.W.**

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<sup>20</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>21</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

**A120633 – The People, v. Carlos Caicedo.**

Thursday, May 21, 2009(Continued)

The judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A121952 – In re Athena H., et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services, v. Cynthia H.**

The order denying the petition for disclosure is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A122915 – In re C.H., a Person Coming Under the Juvenile Court Law. The People, v. C.H.**

The dispositional order is affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A123718 and A124780 – Susan Pisani et al., v. Daniel Marchand et al.**

By The Court: Upon due consideration, and pursuant to the stipulation of the parties, the motion to consolidate the above-reference appeals is granted for purposes of briefing, oral argument, if any, and decision. Both case numbers shall appear on all documents filed in this court. The consolidated opening brief shall be due by June 15, 2009. McGuiness, P.J.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Monday, May 21, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Siggins, J., and Jenkins, J.; and B. Robbins, Deputy Clerk.

A122583     In re Robert T. Preston  
              On Habeas Corpus.  
Cause called and argued by J. Bradley O'Connell, counsel for petitioner, and Rene A. Chacon, counsel for respondent. Cause ordered submitted.

A121673     Vicente Fuentes,  
              v.  
              Rent-a-Center, Inc, et al.  
Cause called and argued by Henry Lederman, counsel for appellants, and Alan Cohen, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak joined the bench and Justice Siggins left the bench.

A113670     The People,  
A113671     v.  
A123374     Napoleon Brown.  
Cause called and argued by Marc Zilversmit, counsel for appellant/respondent Brown, and Amy Haddix, counsel for respondent/appellant The People. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench and Justice Siggins re-joined the bench. Justice Pollak presided over the remaining case.

A122792     Happening House Ventures,  
              v.  
              Haight Ashbury Free Clinics.  
Cause called and argued by William Alderman, counsel for appellant, and Frank Cialone, counsel for respondent. Cause ordered submitted.

Court adjourned.

Thursday, May 21, 2009(Continued)

Division Four

**A118640 – The People, v. Albert Feaster.**

The judgment is affirmed.<sup>22</sup> Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J.  
(Not for Publication.)

Division Five

**A119920 – The People, v. Malcolm McCoy.**

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J.  
(Not for Publication.)

**A120168 – Lee Barfield, v. Ecology Control Industries, Inc.**

By The Court: It is ordered that the opinion filed herein on April 30, 2009, be modified as follows: (See Order). There is no change in the judgment. Simons, Acting P.J. (Not for Publication.)

**A120370 – The People, v. Howard Lee.**

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J.<sup>23</sup>  
(Not for Publication.)

Friday, May 22, 2009

**A121882 – In re C.A., a Person Coming Under the Juvenile Court Law.  
People, v. C.A.**

By The Court: The petition for rehearing is denied. Jones, P.J.

Tuesday, May 26, 2009

Division One

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<sup>22</sup> Appellant's pending petition for habeas corpus will be addressed in a separate order.

<sup>23</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A122914 – In re P.P., a Person Coming Under the Juvenile Court Law. The People, v. P.P.**

The juvenile court's dispositional is affirmed. Graham, J.<sup>24</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)  
Tuesday, May 26, 2009(Continued)

**A122597 – In re D.B., a Person Coming Under the Juvenile Court Law. The People, v. D.B.**

The jurisdictional and dispositional findings are affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>25</sup> (Not for Publication.)

**A123525 – The People, v. Estevan Vidal.**

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>26</sup> (Not for Publication.)

Division Three

**A123735 – In re N.F., a Person Coming Under the Juvenile Court Law. The People, v. N.F.**

The orders of the juvenile court are affirmed. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A124536 – T.K., v. The Superior Court of Mendocino County, Mendocino County Department of Social Services, R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14 *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for July 22, 2009, our decision is immediately final as to this court. (Cal. Rules of Court, rule 8.264(b)(2)(A).) Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Wednesday, May 27, 2009

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<sup>24</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>25</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>26</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division One

**A123545 – The People, v. Arthur Matthew Mendez.**

We find no arguable issues that require further briefing and, accordingly, affirm the judgment. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>27</sup> (Not for Publication.)

Wednesday, May 27, 2009(Continued)

**A123410 – In re M.A., a Person Coming Under the Juvenile Court Law. The People, v. M.A.**

The judgment and orders appealed from are affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>28</sup> (Not for Publication.)

**A121193 – The People, v. Jacques Chahin.**

Accordingly, the judgment is affirmed. Graham, J.<sup>29</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A121860 – The People, v. Theodore T. Parker.**

Accordingly, the judgment and sentence imposed are affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A120092 – The People, v. Walter Jackson. In re Walter Jackson, On Habeas Corpus.**

The judgment is affirmed and the petitions for writs of habeas corpus are denied. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A121259 – In re Jamil B., a Person Coming Under the Juvenile Court Law. The People, v. Jamil B.**

The order committing Jamil to the DJF is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

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<sup>27</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>28</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>29</sup> Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A122795 – The People, v. Valerius Wlaters.**

The order of probation is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A122467 – Manuel Carranco et al., v. Eric Quintana.**

The trial court's order granting respondent Quintana's motion for summary judgment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Wednesday, May 27, 2009(Continued)

Division Four

**A122916 – In re Melinda D., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. Kelly M.**

The order denying mother's section 388 petition and terminating her parental rights is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A121842 – The People, v. Toby James Coleman.**

The conviction for solicitation of perjury (count 2) is reversed. In all other respects, the judgment is affirmed. If the trial court's stay of the imposition of sentence is dissolved, the trial court shall take into account the reversal of appellant's conviction on count 2 when imposing sentence. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, May 28, 2009

Division One

**A119406 – The People, v. Jimmy Washington.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>30</sup> (Not for Publication.)

**A121516 – The People, v. Scott L. Depree.**

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>31</sup> (Not for Publication.)

Division Two

**A119543 – Forestville Citizens for Sensible Growth, v. County of Sonoma et al., Canyon Rock Company, Inc. et al., R.P.I.**

The judgment is reversed to the extent it found the FEIR sufficiently addressed the impacts of rezoning all 113.77 of the Company's acres in the Western Expansion and Northern Expansion areas. We remand the matter to the trial court and instruct it to issue a writ of mandate requiring that an EIR be prepared and recirculated with an analysis of the possible environmental impacts of

Thursday, May 28, 2009(Continued)

this rezoning sufficient to meet CEQA requirements before any project is approved or allowed to proceed. The judgment is affirmed in all other respects. Each party is to bear their own costs of appeal. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A122792 – Happening House Ventures, v. Haight Ashbury Free Clinics, Inc.**

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Division Four

**A121511 – The People, v. Steven Steffani.**

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

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<sup>30</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>31</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A120686 – Floro Zarate et al., v. Rodelio Manuel et al.**

The trial court's ruling granting respondents attorney fees is affirmed in all respects. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A119243 – Hilltop J.G., LLC et al., v. William Schneiderman et al.**

The judgment is reversed to the extent it pertains to the scope of the tree trimming easement, and the matter is remanded for further proceedings consistent with this opinion. In all other respects, the judgment is affirmed. The parties are to bear their own costs on appeal. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A123959 – The People, v. Stedmon Romel Searcie.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A119368 – The People, v. Romeo Lamar Malone.**

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

Thursday, May 28, 2009(Continued)

**A122695 – In re J.L., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health & Human Services, v. James, J.**

The juvenile court's July 15, 2008 jurisdictional order is reversed to the extent it sustains the allegations in paragraph b-2 of the petition. The court's August 13, 2008 dispositional order is reversed to the extent it denies Father's request for custody of Minor. The court's orders are otherwise affirmed. The matter is remanded for reconsideration of whether Minor should be placed with Father under section 361.2, subdivision (a). Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A122105 – Andrew D. Smith et al., v. Novato Unified School District et al.**

The award of \$336,350 in attorney fees for work performed by plaintiffs' counsel in *Smith I* is affirmed. The matter is remanded to the trial court so it can determine the

amount of interest to be awarded on the attorney fee award. Each party to bear its costs on appeal. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Friday, May 29, 2009

Division One

**A123788 – Sandra Caron European Spa, Inc., v. The Superior Court of San Mateo, Jane Doe, R.P.I.**

We hold that the trial court abused its discretion and therefore erred. It failed to require written notice to the third party clients of the proposed release of their contact and or other information to Doe's attorney and of their right to object to such disclosure.<sup>32</sup> The trial court also failed to ensure that any such information would be maintained in confidence and under seal until further consideration by the court of objections, if any, by the third party clients. Let a peremptory writ of mandate issue commanding respondent Superior Court of San Mateo County to set aside its January 5, 2009 "Order Granting Plaintiff's Motion to Compel Further Discovery Responses" requiring disclosure to plaintiff's counsel of "the names and all other contact information in [the Spa's] possession for all female customers who saw defendant JONG 'JOHN' KIM only one time for a massage while he was working at SANDRA CARON EUROPEAN SPA," and its March 10, 2009 "Amended Order Re: Plaintiff's Motion to Compel," and to instead take the following actions: (1) Require the mailing of a court-approved notice (by the Spa of the court) to the specified female clients, in a manner calculated to ensure that the notices reach the clients. The notice shall afford the clients a reasonable opportunity to state their reasons for objecting to disclosure of their information. (2) After balancing any objections against Doe's claimed right to discovery, make a further order granting or denying disclosure of contact information to Doe. (3) Any further

Friday, May 29, 2009(Continued)

disclosure order shall contain appropriate confidentiality and sealing provisions, and shall place reasonable limitations on the time, place and manner by which the clients may be contacted. The stay orders previously imposed shall remain in effect until issuance of the remittitur. Petitioner shall recover its costs. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>33</sup> (Not for Publication.)

**A113636 – The People, v. Rafael Diaz Casique.**

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<sup>32</sup> We reject the Spa's argument that affirmative consent to disclosure is required. On the record before us, an order affording the third party clients notice and opportunity to object the appears sufficient.

<sup>33</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Accordingly, the judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>34</sup> (Not for Publication.)

**A121791 – The People, v. Kenyatta Anderson.**

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>35</sup> (Not for Publication.)

**A119576 – The People, v. Hsiaoichi Ho.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.<sup>36</sup> (Not for Publication.)

Division Two

**A122101 – The People, v. Michael Terry Ehrhardt.**

The judgment and sentence imposed are both affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A122589 – The People, v. George Curtis Cole. A123282 – In re George Curtis Cole, on Habeas Corpus.**

The judgment is affirmed. The writ of habeas corpus is denied. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

Friday, May 29, 2009(Continued)

**A118255 – In re the Marriage of James Heierle and Yupa Assawasuksant. James Heierle, v. Yupa Assawasuksant.**

The June 28, 2007 order denying the motion to vacate the order of December 12, 2006 is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

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<sup>34</sup> Retired judge of the Marin Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>35</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6

<sup>36</sup> Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A122034 – The People, v. Devion Desean Johnson.**

The restitution order of June 19, 2008 is reversed and the case remanded to the trial court for a properly noticed hearing on the amount of victim restitution. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A123065 – In re Branden O., a Person Coming Under the Juvenile Court Law. The People, v. Branden O.**

The dispositional order is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Certified for Publication.)

**A120345 – The People, v Shawn Marta Herron.**

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A123748 – Samantha Seinfeld, v. GL Premier Properties, LLC, et al.**

The order denying defendants' section 425.16 motion to strike is reversed and the cause is remanded to the trial court for determination of that motion on its merits. Costs to appellants. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A123344 – The People, v. Eddie John Motley.**

The judgment is affirmed. Bruiniers, J.<sup>37</sup> We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A122847 – The People, v. Aida Pulido.**

The judgment is affirmed. Bruiniers, J.<sup>38</sup> We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Friday, May 29, 2009(Continued)

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<sup>37</sup> Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>38</sup> Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A123251 – The People, v. Mario Joseph Ruiz.**

The appeal is dismissed. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J.<sup>39</sup> (Not for Publication.)

**A121331 – Barbara S Chapman, v. Trustees of the California State University.**

By The Court: The petition for rehearing is denied. Jones, P.J.

**A121827 – Valentine Capital Asset Management, Inc., et al., v. Sean Agahi et al.**

The order is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

**A123723 – In re Eden B., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Eden B. et al.**

The appeal is dismissed. Bruiniers, J.<sup>40</sup> We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

**A120180 – The People, v. Ali Omar Polk.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Bruiniers, J.<sup>41</sup> (Not for Publication.)

**A121420 – The People, v. Daniel Naranjo Gutierrez.**

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J.<sup>42</sup> (Not for Publication.)

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<sup>39</sup> Judge of the Contra Costa Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>40</sup> Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>41</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>42</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.